ENTERED

January 28, 2020 David J. Bradley, Clerk

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

JOHN KELLY,	§
	§
Plaintiff,	§
VS.	§ CIVIL ACTION NO. 4:19-CV-4297
	§
WARDEN D. DICKERSON	§
and	§
T. FITZPATRICK	§
and	§
WARDEN T. HUTTO, et al,	§
	§
Defendants.	§

ORDER OF DISMISSAL

John Kelly, Jr. is an inmate in the Texas Department of Criminal Justice ("TDCJ"). He filed a complaint under 42 U.S.C. § 1983 alleging violations of his rights by several TDCJ officials and employees.

Section 1915A of title 28 of the United States Code requires a federal district court to "review . . . a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity." If the complaint presents no cognizable claims, the court must dismiss the complaint.

Kelly alleges that another inmate turned off a fan in a dayroom and threatened Kelly with violence if he turned the fan back on. A Correctional Officer intervened and turned the fan back on, but the inmate turned it off again. Kelly states that he informed defendant William A. Miller, a prison chaplain, but that Miller did nothing. Kelly contends that the defendants have violated his rights by giving inmates authority over other inmates.

Kelly points to a single instance in which one inmate turned off a fan in a dayroom. He points to no act by any defendant placing an inmate in a position of authority over another

inmate, nor does he identify any constitutional right that was violated by defendant Miller's alleged failure to intervene. Kelly identifies no act or omission by any other named defendant.

Accordingly, it is ORDERED that Kelly's Amended Complaint (Doc. # 6) is DISMISSED pursuant to 28 U.S.C. § 1915A. This dismissal shall count as a strike for purposes of 28 U.S.C. § 1915(g). The Clerk shall forward a copy of this Order to:

Three Strikes@txs.uscourts.gov.

It is so ORDERED.

SIGNED on this 27th day of January, 2020.

Kenneth M. Hoyt

United States District Judge